

House Bill 490

By: Representatives Ridley of the 6th, Rhodes of the 120th, Gambill of the 15th, Petrea of the 166th, and Kelley of the 16th

A BILL TO BE ENTITLED

AN ACT

To amend Part 12 of Article 1 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to deposits of deceased depositors, so as to make changes relating to the payment of large deposits of deceased intestate depositors and the deposit of sums held for deceased intestate residents; to provide for and revise certain definitions; to provide for an affidavit for certain claimants to deposits; to provide a statutory form for an affidavit of the providers of services of funeral expenses and expenses of last illnesses of deceased depositors; to change certain provisions relating to payment of checks or instruments payable to deceased intestate persons; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 12 of Article 1 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to deposits of deceased depositors, is amended by revising Code Section 7-1-239, relating to payment of large deposits of deceased intestate depositors, deposit of sums held for deceased intestate residents, and affidavit included with application for deposit, as follows:

"7-1-239.

(a) As used in this Code section, the term:

(1) 'Affidavit of the provider' means the form provided for in subsection (e) of this Code section.

(2) 'Financial institution' means any federally chartered financial institution or state chartered financial institution, including, but not limited to, those chartered by states other than the State of Georgia whose deposits are federally insured.

~~(a)(b)~~ Except as provided in subsection ~~(b)~~ (c) of this Code section and in Article 8 of this chapter, whenever any person dies intestate having a deposit of not more than ~~\$10,000.00~~ \$15,000.00 in a financial institution, such financial institution, upon receipt of an affidavit,

shall be authorized to pay the proceeds of such deposit directly to the following ~~persons~~
individuals:

- (1) To the surviving spouse;
- (2) If no surviving spouse, to the children pro rata;
- (3) If no children or surviving spouse, to the father and mother pro rata; or
- (4) If none of the above, then to the brothers and sisters of the decedent pro rata.

Such affidavit shall state that such individuals qualify as the proper relation to the decedent as specified in this subsection, there is no known will of the decedent, and that there are no other known corresponding claimant or claimants to such deposit.

~~(b)~~(c) Except as provided in Article 8 of this chapter, if no application for the deposit is made by any person named in subsection (a) ~~(b)~~ of this Code section within ~~90~~ 45 days from the death of the intestate depositor, the financial institution shall be authorized to apply not more than ~~\$10,000.00~~ \$15,000.00 of the deposit of such deceased depositor in payment of the funeral expenses and expenses of the last illness of such deceased depositor upon the receipt of itemized statements of such expenses and the affidavit of the providers of such services that the itemized statements are true and correct and have not been paid. The financial institution shall pay such expenses in the order received after the death of the depositor.

~~(c)~~(d) Payments pursuant to ~~subsections (a) and (b)~~ of this Code section shall operate as a complete acquittal and discharge to the financial institution of liability from any suit, claim, or demand of whatever nature by any heir, distributee, creditor of the decedent, or any other person. ~~Such payment is authorized to be made as provided in this Code section without the necessity of administration of the estate of the decedent or without the necessity of obtaining an order that no administration is necessary.~~ The financial institution may rely on a properly executed affidavit in disbursing the funds in accordance with this Code section.

~~(d) In any case in which a deceased depositor has more than \$10,000.00 on deposit in a financial institution, such financial institution shall be authorized to pay any amount up to \$10,000.00 to any of the persons authorized by this Code section to receive said deposit. The payment shall only act as a full and final acquittance of liability up to the amount paid by the financial institution and shall not act as a full and final acquittance to the financial institution of all liability.~~

~~(e) Notwithstanding any other provisions of law to the contrary, when any person dies intestate as a resident of this state and any person is left in possession of moneys belonging to the decedent, which moneys do not exceed \$10,000.00, such person shall deposit such moneys into a savings account in the name of the decedent in a financial institution located in the area of the decedent's residence. Such account shall be managed in accordance with~~

~~the signature contract in effect at the financial institution at the time the account is opened.~~

~~Any financial institution receiving such deposits is authorized to pay the proceeds in~~

~~accordance with subsections (a), (b), (c), and (d) of this Code section.~~

~~(f) As used in this Code section, the term 'financial institution' includes any federally~~

~~chartered financial institution.~~

~~(g) Application by any claimant or claimants entitled in this Code section to receive~~

~~deposits at a financial institution shall include an affidavit by the claimant or claimants~~

~~which states that they qualify as the proper relation to the decedent as specified in this~~

~~Code section and that the claimant or claimants know of no other corresponding claimant~~

~~or claimants to such deposit. The financial institution may rely on a properly executed~~

~~affidavit in disbursing the funds according to this Code section.~~

(e) A document substantially in the following form shall be used as the affidavit of the

providers of services of funeral expenses and expenses of last illnesses of deceased

depositors:

'State of Georgia County of

STATUTORY AFFIDAVIT FORM

_____ from _____ attests that

(Claimant) (Facility)

_____ died on the _____ day of _____, 20____.

(Deceased)

On information and belief, the Deceased has funds on deposit with

(Financial Institution)

Under O.C.G.A. § 7-1-239, such Financial Institution is authorized to pay the proceeds

of the Deceased's deposits, but in no event more than \$15,000.00, directly to the

following persons identified, collectively, as potential recipient(s):

1. To the surviving spouse;

2. If no surviving spouse, to the children pro rata;

3. If no children or surviving spouse, to the father and mother pro rata; or

4. If none of the above, then to the brothers and sisters of the decedent pro rata.

Except as provided for by Article 8 in Title 7 of the O.C.G.A., if no request for the

Deceased's deposit is made by a potential recipient(s) within 45 days from the

Deceased's death, the Financial Institution is authorized to release up to \$15,000.00 for

funeral expenses and expenses of the last illness of the Deceased upon the receipt of itemized statements of such expenses and this executed attestation.

The Claimant attests that there is no known will of the Deceased and there is no known potential recipient of the Deceased's deposits. The Claimant also attests that funeral expenses or expenses of the last illness in the amount of \$ _____ were incurred related to the Deceased and that true and correct copies of the itemized receipts fully supporting such amount are attached to this affidavit. Finally, the Claimant further attests that such expenses have not been paid as of the date of execution of this affidavit.

Pursuant to O.C.G.A. § 7-1-239, the Claimant submits this form in order to receive payment in the amount of \$ _____ (shall not exceed \$15,000.00) for outstanding funeral expenses or expenses of the last illness of the Deceased.

Signature of Claimant

Sworn and subscribed

before me this _____ day

of _____, 20__.

Notary public (SEAL)

My commission expires: _____."

SECTION 2.

Said part is further amended by revising subsection (a) of Code Section 7-1-239.1, relating to payment of checks or instruments payable to deceased intestate persons and affidavit included with application for payment, as follows:

"(a) Whenever any person dies intestate having possession of or a right to possession of a check or other instrument payable to such deceased person and the amount of the check or instrument does not exceed ~~\$10,000.00~~ \$15,000.00, the financial institution on which the check or instrument is drawn shall be authorized to accept and redeem the check or instrument by payment to the following persons:

- (1) To the surviving spouse;
- (2) If no surviving spouse, to the children pro rata;
- (3) If no children or surviving spouse, to the father and mother pro rata; or
- (4) If none of the above, then to the brothers and sisters of the decedent pro rata."

129

SECTION 3.

130 All laws and parts of laws in conflict with this Act are repealed.